

**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of

**PETITION TO AMEND RULE 38(d)
OF THE RULES OF THE
SUPREME COURT OF ARIZONA**

Supreme Court No. R-09-0038

**Phoenix School of Law's
Response to Sandra Day
O'Connor College of Law and
James E. Rogers College of
Law Comments on Petition To
Amend Rule 38(d)**

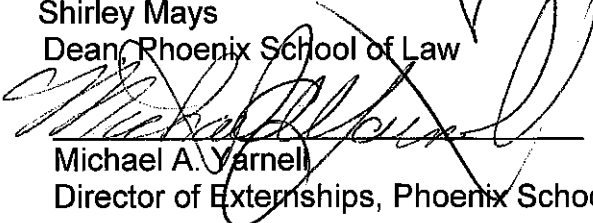
The Phoenix School of Law files this response to the Sandra Day O'Connor College of Law Arizona State University Comment On Petition To Amend (dated September 14, 2010) and to the James E. Rogers College of Law's Comments On Petition To Amend Rule 38(d) (dated September 22, 2010). An amended proposed Rule 38(d) specifically addressing each of the comments and modifying the originally filed proposed amendment. The attached revised amended Rule 38(d) of the Rules of the Supreme Court of Arizona related to limited law student practice is hereby submitted for approval by the Arizona Supreme Court.

Respectfully submitted this 3rd Day of November, 2010

The Phoenix School of Law

By: 

**Shirley Mays
Dean, Phoenix School of Law**


**Michael A. Yarnell
Director of Externships, Phoenix School of Law**

I. RESPONSE TO COMMENTS:

Each of the comments by the Sandra Day O'Connor College of Law and the James E. Rogers College of Law is addressed and each objection is remedied with specific amended language in the attached revisions to the suggested amended Rule 38(d). Attached to this response are three documents: 1) the September 3, 2010, Rule 38(d) revisions suggested by Staff Counsel of the Arizona Supreme Court; 2) the November 2, 2010 Phoenix School of Law revisions in response to the recent law school comments; and, 3) a red-line version comparing those two documents showing the submitted revisions.

A. Required connection of student certification to accredited law school educational programs or courses:

In response to the comments the provision of the Arizona student limited practice rule requiring that certification be "part of the law school's educational and clinical law practice program approved by the dean and faculty of a law school either provisionally or fully approved and accredited by the American Bar Association" has been returned to the rule. This requirement has been made applicable to any and all student limited practice certifications.

As a part of this change, the provisions for the duration of a student's limited practice certificate are clearly made co-extensive with the contemporaneous student enrollment in such a law school course or program. The provision for post law school graduation and pre-bar admission student limited practice certification have been removed from the various sections.

B. Limited time extension of certificate to allow completion of an identified case or project.

A new provision has been added allowing the issuance of an Amended Certificate of Limited Student Practice to cover those situations where the student, the law school certifying authority, and the supervising licensed Arizona attorney all agree to a specific targeted time and project or case specific extension of the limited practice certificate beyond the end of the particular supporting contemporaneous law school class to allow students who have received clinical education or are working in a Rule 38 externship with a qualified supervisor to continue a project to its logical end.

B. Course pre-requisites to issuance of student limited practice certificate.

The requirement that students seeking Rule 38 certification first take “academic courses in civil procedure, criminal law, evidence, and professional responsibility” has been changed to read that students seeking Rule 38 certification must take only “those academic pre-requisites required by the law school.”

The Phoenix School of Law endorses and has no objection to the previously suggested changes by the Maricopa County Attorney’s Office to allow students in their 2L year summer to become Qualified Limited Practice Students and the Sandra Day O’Connor College of Law suggested reduction of the three semester or equivalent completed course work to two semesters, or its equivalent.

C. Use of the term “dean’s designee.”

The term that a “dean, associate dean, or assistant dean” has been changed throughout the proposed amended rule to read “dean or dean’s designee.”

D. Number of students supervised by non-full time faculty.

The suggestion by the James E. Rogers College of law to modify proposed Rule 38(d)(5)(E)(ii) to read “supervise no more than five (5) certified limited practice students concurrently; provided, however, that a supervising attorney who is employed by a law school primarily to supervise law students as part of an organized law school clinical education program . . . may supervise up to, but in no case more than, fifty (50) certified students” has been made.

E. Students familiarity with regulations relating to the conduct of attorneys.

The provision of proposed Rule 38(d)(5)(A)(iii) has been modified to read that the student will certify that she has read and is familiar with “the current Arizona Supreme Court Rules as to the conduct of attorneys” and the reference to statutes regulating attorney conduct has been removed.

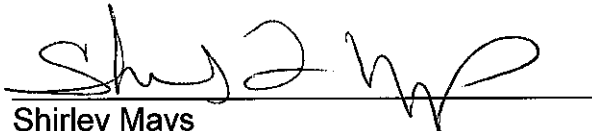
II. REQUEST FOR APPROVAL OF MODIFIED AMENDED RULE 38(d)

The Phoenix School of Law appreciates and values the comments received. There is general agreement among all stakeholders that over the years amendments to Rule 38(d) have resulted in text that is disjointed and sometimes difficult to apply and that the proposed amendment restates existing Rule 38(d) to add more definition, clarity and accountability.

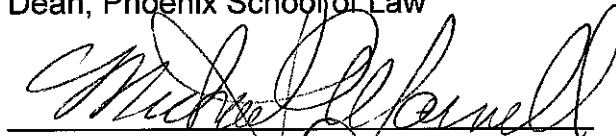
The currently revised proposed amendment accommodates all the comments received, provides a logical presentation and organization, clarifies and defines terms, separates the provisions of clinical law professor limited practice from qualified law student limited practice, consolidates provisions applicable to various topics, clarifies the duration and requirements for student limited practice certification, and clarifies the

responsibilities of law schools, students, agencies, and supervising attorney's as to law student limited practice.

With the attached revisions, all the American Bar Association accredited law schools in Arizona support, or have no objection to, the revised proposed amendment.


Shirley Mays
Dean, Phoenix School of Law


date


Michael A. Yarnell
Director of Externships
Phoenix School of Law


date

RULES OF THE SUPREME COURT

* * *

Rule 38. Special Exceptions to Standard Examination and Admission Process

(a)-(c) [No change in text.]

(d) Clinical Law Professors and Law Students

1. *Purpose.* The bench and the bar are primarily responsible for providing competent legal services for all persons, including those unable to pay for these services. This rule is adopted as one means of providing assistance to practicing attorneys in providing such services and to encourage law schools to provide clinical instruction in trial work of varying kinds and to facilitate volunteer opportunities for students in pro bono contexts. Law schools, together with the bench and bar, should facilitate supervised opportunities for the practical training of qualified law students as a valuable complement to academic training prior to the student's full admission to legal practice.

2. Definitions.

A. "Accredited law school" means a law school either provisionally or fully approved and accredited by the American Bar Association.

B. "Certified limited practice student" is a law student or a graduate of an accredited law school who holds a currently effective Arizona Supreme Court Certification as a certified limited practice student.

C. "Dean" means the dean of the Accredited Law School where the student is enrolled (or was enrolled on graduation), or be the dean's designee, who signed the application for limited practice certification.

D. "Designated attorney" is, exclusively in the case of government agencies, any deputy, assistant or other staff attorney authorized and selected by a supervising attorney to supervise the certified limited practice student where permitted by these rules.

E. "Period of supervision" means the dates for which the supervising attorney has declared, on the application for certification or recertification, he or she will be responsible for any work performed by the certified limited practice student under his or her supervision.

F. "Personal presence" means the supervising attorney or designated attorney is in the physical presence of the certified limited practice student.

G. "Rules" means Rule 38, Rules of the Supreme Court.

H. "Supervising attorney" is an attorney admitted to Arizona full or limited practice who agrees in writing to supervise the certified limited practice student pursuant to these rules and whose name appears on the application for certification or recertification.

I. "Volunteer legal services program" means a volunteer legal services program managed by an approved legal services organization in cooperation with an accredited law school. Approved legal service organizations are defined in paragraph (e)(2)(C) of this rule.

3. *General Provisions.*

A. *Limited Bar Membership.* To the extent a professor or a student is engaged in practice of law under this rule, the professor or student shall, for the limited purpose of performing professional services as authorized by this rule, be deemed an active member of the state bar (but not required to pay fees). The provisions of this rule shall govern rather than the provisions of other rules relating to admission and discipline.

B. *Nonapplicability of Attorney Discipline Rules to Terms of the Certification.* The procedures otherwise provided by law or court rule governing the discipline of lawyers shall not be applicable to the termination of the certification of a clinical law professor or a limited practice student pursuant to this rule. Termination of certification shall be without prejudice to the privilege of the professor or the student to make application for admission to practice law if the professor or the student is in other respects qualified for such admission.

C. *Effect of Certification on Application for Admission to Bar.* The certification of a clinical law professor or a limited practice student shall in no way be considered as an advantage or a disadvantage to the professor in an application for admission to the state bar.

D. *Privileged Communications.* The rules of law and of evidence relating to privileged communications between attorney and client shall govern communications made or received by and among professors, supervising attorneys (and designated attorneys), and certified limited student practice students. All persons participating in any program of instruction or professional activity for which a student is certified under these rules are enjoined not to disclose privileged or confidential communications whether in the implementation of a course of instruction or otherwise.

4. *Clinical Law Professors.*

A. *Activities of Clinical Law Professors.* A clinical law professor not a member of the state bar but certified pursuant to this rule may appear as lawyer, solely in connection with supervision of a clinical law program approved by the dean and faculty of a law school in Arizona which is either provisionally or fully approved and accredited by the American Bar Association, in any court or before any administrative tribunal in this state in any of the matters enumerated in paragraph (d)(5)(C) of this rule on behalf of any person, if the person on whose

behalf the appearance is being made has consented in writing to that appearance. Such written consent shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal.

B. Requirements and Limitations for Clinical Law School Professors. In order to make an appearance as lawyer pursuant to this rule, the clinical law professor must:

- i. be duly employed as a faculty member of a law school in Arizona which is either provisionally or fully approved and accredited by the American Bar Association for the purpose, *inter alia*, of instructing and supervising a clinical law program approved by the dean and faculty of such law school;
- ii. be admitted by examination to the bar of another state or the District of Columbia;
- iii. neither ask for nor receive any compensation or remuneration of any kind for such services from the person on whose behalf the services are rendered; and
- iv. certify in writing that the clinical law professor has read and is familiar with the Arizona Rules of Professional Conduct and the Rules of the Supreme Court of Arizona and statutes of the State of Arizona relating to the conduct of lawyers.

C. Certification. The certification shall be signed by the dean of the law school on the form proscribed by the clerk of this Court and shall be filed with the clerk and the state bar. The certification shall remain in effect until withdrawn.

D. Duty to Ensure Adequate Supervision and Guidance of Certified Limited Practice Student. It shall be the responsibility of the clinical law professor to ensure that certified limited practice students receive adequate supervision and guidance while participating in the law school's clinical law program. In the case of a certified student who has graduated and participates in the program pending the taking of the bar examination, the clinical law professor shall, on a monthly basis, based on such reporting from the certified limited practice student and the supervising attorney as the law school shall require, confirm that the certified graduate has received and is receiving adequate attorney supervision and guidance.

E. Withdrawal or Termination of Certification.

- i. The dean may withdraw a certification of a clinical law professor at any time by filing a notice to that effect, with or without stating the cause for withdrawal, with the clerk of this Court, who shall forthwith mail copies thereof to the clinical law professor and the State Bar of Arizona.
- ii. The Court may terminate the certification of a clinical law professor at any time without cause and without notice or hearing by filing notice of the termination with the clerk of this Court and with the state bar.

5. *Practical Training of Law Students*

A. *Law Student Eligibility for Limited Practice Certification.* To be eligible to become a certified limited practice student, a law student applicant must:

- i. have successfully completed legal studies amounting to at least three semesters, or the equivalent academic hour credits if the school or the student is on some basis other than a semester, at an accredited law school, or have graduated from an accredited law school, subject to the time limitations set forth in these rules;
- ii. neither ask for nor receive any compensation or remuneration of any kind for services rendered by the certified limited practice student from the person on whose behalf the services are rendered, but this shall not prevent a supervising lawyer, legal aid bureau, law school, public defender agency, or the state from paying compensation to the eligible law student, nor shall it prevent any such lawyer or agency from making such charges for its services as it may otherwise properly require;
- iii. certify in writing that the student has read and is familiar with the Arizona Rules of Professional Conduct and the rules of the Supreme Court of Arizona and statutes of the State of Arizona relating to the conduct of attorneys; and
- iv. be certified by the dean of the accredited law school where the student is enrolled (or was enrolled on graduation), or be the dean's designee, as being in good academic standing, of good character, and as having either successfully completed or being currently enrolled in and attending, academic courses in civil procedure, criminal law, evidence, and professional responsibility.

B. *Application for Limited Practice Certification.*

- i. All applications for student limited practice certification or requests to change or add a supervising attorney or extend the period of certification pursuant to these rules must be submitted on a form provided by the clerk of the Court, to the clerk, with all the information requested on the form, together with any designated appropriate nonrefundable processing fee. The clerk of the Court shall send a copy of all approved student limited practice certifications to the admissions department of the state bar.
- ii. The application for certification shall require the signature of the applicant, the dean, associate dean, or assistant dean of the accredited law school in which the applicant is enrolled, and the signature of the supervising attorney.
- iii. The applicant shall attest that he or she meets all of the requirements of the rules; agrees to and shall immediately notify the clerk of the Court in the event he or she no longer meets the requirements the rules; and, that he or she has read, is familiar with and will abide

by the Rules of Professional Conduct of the State of Arizona and these rules.

iv. The dean, associate dean, or assistant dean of the accredited law school in which the applicant is enrolled shall attest that the applicant meets the requirements of these rules; that he or she shall immediately notify the clerk of the Court in the event that the certified limited practice student no longer meets the requirements of these rules; and that he or she has no knowledge of facts or information that would indicate that the applicant is not qualified by ability, training, or character to participate in the activities permitted by these rules.

v. The supervising attorney shall specify the period during which he or she will be responsible for and will supervise the applicant and attest that he or she has read, is familiar with, will abide by, and will assume responsibility under the requirements of these rules;

C. Permitted Activities and Requirements of Limited Practice Certification; Physical Presence of Supervising Attorney.

i. *Court and Administrative Tribunal Appearances.* A certified limited practice student may appear in any court or before any administrative tribunal in this state on behalf of any person if the person on whose behalf the student is appearing has consented in writing to that appearance and the supervising attorney has also indicated in writing approval of that appearance. In each case, the written consent and approval shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal. In addition, the certified limited practice student shall orally advise the court on the occasion of the student's initial appearance in the case of the certification to appear as a law student pursuant to these rules. A certified limited practice student may appear in the following matters:

a. *Civil Matters.* In civil cases in justice, municipal, and magistrate courts, the supervising lawyer (or designated lawyer) is not required to be personally present in court if the person on whose behalf an appearance is being made consents to the supervising lawyer's absence.

b. *Criminal Matters on Behalf of the State.* In any criminal matter on behalf of the state or any political subdivision thereof with the written approval of the supervising attorney (or designated attorney), the supervising attorney (or designated attorney) must be present except when such appearance is in justice, municipal, or magistrate courts.

c. *Felony Criminal Defense Matters.* In any felony criminal defense matter in justice, municipal, and magistrate courts, and any criminal matter in superior court, the supervising attorney (or designated attorney) must be personally present throughout the proceedings and shall be fully responsible for the manner in which they are conducted.

d. *Misdemeanor Criminal Defense Matters.* In any misdemeanor criminal defense matter in justice, municipal, and magistrates courts, the supervising attorney (or designated attorney) is not required to be personally present in court, so long as the person on whose behalf an appearance is being made consents to the supervising attorney's absence; however, the supervising attorney shall be present during trial.

e. *Appellate Oral Argument.* A certified limited practice student may participate in oral argument in the Arizona Supreme Court and the Arizona Court of Appeals, but only in the presence of the supervising attorney (or designated attorney) and with the specific approval of the court for that case.

Notwithstanding anything hereinabove set forth, the court may at any time and in any proceeding require the supervising attorney (or designated attorney) to be personally present for such period and under such circumstances as the court may direct.

ii. *Other Client Representation Activities.* Under the general supervision of the supervising attorney (or designated attorney), but outside his or her personal presence, a certified limited practice student may:

a. prepare pleadings and other documents to be filed in any matter in which the certified limited practice student is eligible to appear, but such pleadings or documents must be signed by the supervising attorney (or designated attorney);

b. prepare briefs, abstracts and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising attorney (or designated attorney);

c. provide assistance to indigent inmates of correctional institutions or other persons who request such assistance in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this court (if there is a lawyer of record in the matter, all such assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney (or designated attorney);

d. render legal advice and perform other appropriate legal services, but only after prior consultation with and upon the express consent of the supervising attorney (or designated attorney).

iii. *Other Non-Representation Activities.* A certified limited practice student may perform any advisory or non-representational activity which could be performed by a person who is not a member of the state bar, subject to the approval by the supervising attorney (or designated attorney). In connection with a volunteer legal services program and at the

invitation and request of a court or tribunal, a certified limited practice student may appear as a law student volunteer to assist the proceeding in any civil matter, provided:

- a. the assistance is given to an otherwise unrepresented individual in an uncontested proceeding without entering an appearance as counsel;
- b. the student's supervising attorney is associated with the particular volunteer legal services program;
- c. the certified limited practice student has received the written consent and acknowledgment of non-representation by the unrepresented person, which written consent shall be obtained by the volunteer legal services program and brought to the attention of the court.

D. *Use of the Title "Certified Limited Practice Student."*

i. In connection with activities performed pursuant to these rules, a certified student may use the title "Certified Limited Practice Student" only and may not use the title in connection with activities not performed pursuant to these rules.

ii. When a certified limited practice student's name is printed or signature is included on written materials prepared pursuant to these rules, the written material must also state that the student is a certified limited practice student pursuant to these rules; state the name of the supervising attorney; be signed by the supervising attorney; and otherwise comply with these rules.

iii. A certified limited practice student may not and shall not in any way hold himself or herself out as a regularly admitted or active member of the state bar.

iv. Nothing in these rules prohibits a certified limited practice student from describing his or her participation in this program on a resume or letter seeking employment as long as the description is not false, deceptive or misleading.

v. Nothing contained in these rules shall affect the right of any person who is not admitted to practice law to do anything that person might lawfully do prior to the adoption of this rule.

E. *Requirements and Duties of the Supervising Attorney.* The supervising attorney shall:

i. be an active member of the state bar under these rules, and, before supervising a certified limited practice student shall have practiced law or taught law in an accredited law school as a full-time occupation for at least two years;

ii. supervise no more than five (5) certified limited practice students concurrently;

provided, however, that a supervising attorney who is employed full-time to supervise law students as part of an organized law school or government agency training program may supervise up to, but in no case more than, fifty (50) certified students;

iii. assume personal professional responsibility for any work performed by the certified limited practice student while under his or her supervision;

iv. assist and counsel the certified limited practice student in the activities authorized by these rules and review such activities with the certified limited practice student, all to the extent required for the proper practical training of the certified limited practice student and the protection of the client;

v. read, approve, and personally sign any pleadings, briefs or other similar documents prepared by the certified limited practice student prior to the filing thereof, and read and approve any documents which shall be prepared by the certified limited practice student for execution by any person (exclusively in the case of government agencies, a designated attorney may, in the place of the supervising attorney, perform the obligation set forth in this subparagraph, but the supervising attorney shall still provide general supervision);

vi. provide the level of supervision to the certified limited practice student required by these rules (exclusively in the case of government agencies, a designated attorney may, in the place of the supervising attorney, perform the obligation set forth in this subparagraph, but the Supervising Attorney shall still provide general supervision); and

vii. in the case of a certified student who is participating in the clinical program post-graduation pending the taking of the bar examination, report to the clinical law professor and the dean of the law school, as the law school shall require, on a monthly basis regarding the supervising attorney's supervision and guidance of the certified student.

viii. promptly notify the clerk of the Court in writing if his or her supervision of the certified limited practice student has or will cease prior to the date indicated on a notice of certification.

F. Duration of Certification. Certification of a certified limited practice student shall commence on the date indicated on a notice of certification and shall remain in effect for the period specified on the notice of certification unless sooner terminated pursuant to the earliest of the following occurrences:

i. *Termination by the Student.* The certified limited practice student may request termination of the certification in writing, or notify the clerk of the Court that he or she no longer meets the requirements of this rule, and in such event the clerk shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.

ii. *Termination by the Supervising Attorney.* The supervising attorney may notify the clerk of the Court in writing that his or her supervision of the certified limited practice student will cease prior to the date specified in the notice of certification. In such event the clerk shall send written notice to the student, the student's supervising attorney, the dean and the state bar, and the dean may issue a modified certification reflecting the substitution of a new supervising attorney, as necessary.

iii. *Termination by the Dean.* A certification of student limited practice may be terminated by the dean any time, without cause and without notice or hearing, by filing notice of the termination with the clerk of the Court. A certification of student limited practice shall be terminated if one or more of the requirements for the certification no longer exists or the certified limited practice student, supervising attorney or designated attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.

iv. *Failure to Take or Pass the Bar Examination.* A certification of student limited practice shall be terminated if the certified student fails to take or pass the first general bar examination for which the student is eligible.

v. *Termination by the Arizona Supreme Court.* A certification of student limited practice may be terminated by the Arizona Supreme Court any time, without cause and without notice or hearing, by filing notice of the termination with the clerk of the Court. A certification of student limited practice shall be terminated if one or more of the requirements for the certification no longer exists or the certified limited practice student, supervising attorney or designated attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean and the state bar.

(e)-(i) [No change in text.]

RULES OF THE SUPREME COURT

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Rule 38. Special Exceptions to Standard Examination and Admission Process

(a)-(c) [No change in text.]

(d) Clinical Law Professors and Law Students

1. *Purpose.* The bench and the bar are primarily responsible for providing competent legal services for all persons, including those unable to pay for these services. This rule is adopted as one means of providing assistance to practicing attorneys in providing such services and to encourage law schools to provide clinical instruction in trial work of varying kinds and to facilitate volunteer opportunities for students in pro bono contexts. Law schools, together with the bench and bar, should facilitate supervised opportunities for the practical training of qualified law students as a valuable complement to academic training prior to the student's full admission to legal practice.

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B. "Certified limited practice student" is a law student or a graduate of an accredited law school who holds a currently effective Arizona Supreme Court Certification as a certified limited practice student.

C. "Dean" means the dean of the Accredited Law School where the student is enrolled (or was enrolled on graduation), or the dean's designee, who signed the application for limited practice certification.

D. "Designated attorney" is, exclusively in the case of government agencies, any deputy, assistant or other staff attorney authorized and selected by a supervising attorney to supervise the certified limited practice student where permitted by these rules.

E. "Period of supervision" means the dates for which the supervising attorney has declared, on the application for certification, recertification, or amended certification, that he or she will be responsible for any work performed by the certified limited practice student under his or her supervision.

F. "Personal presence" means the supervising attorney or designated attorney is in the physical presence of the certified limited practice student.

G. "Rules" means Rule 38, Rules of the Supreme Court.

H. “Supervising attorney” is an attorney admitted to Arizona full or limited practice who agrees in writing to supervise the certified limited practice student pursuant to these rules and whose name appears on the application for certification or recertification.

I. “Volunteer legal services program” means a volunteer legal services program managed by an approved legal services organization in cooperation with an accredited law school. Approved legal service organizations are defined in paragraph (e)(2)(C) of this rule.

3. *General Provisions.*

A. *Limited Bar Membership.* To the extent a professor or a student is engaged in practice of law under this rule, the professor or student shall, for the limited purpose of performing professional services as authorized by this rule, be deemed an active member of the state bar (but not required to pay fees). The provisions of this rule shall govern rather than the provisions of other rules relating to admission and discipline.

B. *Nonapplicability of Attorney Discipline Rules to Terms of the Certification.* The procedures otherwise provided by law or court rule governing the discipline of lawyers shall not be applicable to the termination of the certification of a clinical law professor or a limited practice student pursuant to this rule. Termination of certification shall be without prejudice to the privilege of the professor or the student to make application for admission to practice law if the professor or the student is in other respects qualified for such admission.

C. *Effect of Certification on Application for Admission to Bar.* The certification of a clinical law professor or a limited practice student shall in no way be considered as an advantage or a disadvantage to the professor in an application for admission to the state bar.

D. *Privileged Communications.* The rules of law and of evidence relating to privileged communications between attorney and client shall govern communications made or received by and among professors, supervising attorneys (and designated attorneys), and certified limited student practice students. All persons participating in any program of instruction or professional activity for which a student is certified under these rules are enjoined not to disclose privileged or confidential communications whether in the implementation of a course of instruction or otherwise.

4. *Clinical Law Professors.*

A. *Activities of Clinical Law Professors.* A clinical law professor not a member of the state bar but certified pursuant to this rule may appear as lawyer, solely in connection with supervision of a clinical law program approved by the dean and faculty of a law school in Arizona which is either provisionally or fully approved and accredited by the American Bar Association, in any court or before any administrative tribunal in this state in any of the matters enumerated in paragraph (d)(5)(C) of this rule on behalf of any person, if the person on whose

behalf the appearance is being made has consented in writing to that appearance. Such written consent shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal.

B. Requirements and Limitations for Clinical Law School Professors. In order to make an appearance as lawyer pursuant to this rule, the clinical law professor must:

- i. be duly employed as a faculty member of a law school in Arizona which is either provisionally or fully approved and accredited by the American Bar Association for the purpose, *inter alia*, of instructing and supervising a clinical law program approved by the dean and faculty of such law school;
- ii. be admitted by examination to the bar of another state or the District of Columbia;
- iii. neither ask for nor receive any compensation or remuneration of any kind for such services from the person on whose behalf the services are rendered; and
- iv. certify in writing that the clinical law professor has read and is familiar with the Arizona Rules of Professional Conduct and the Rules of the Supreme Court of Arizona and statutes of the State of Arizona relating to the conduct of lawyers.

C. Certification. The certification shall be signed by the dean of the law school on the form proscribed by the clerk of this Court and shall be filed with the clerk and the state bar. The certification shall remain in effect until withdrawn.

D. Duty to Ensure Adequate Supervision and Guidance of Certified Limited Practice Student. It shall be the responsibility of the clinical law professor to ensure that certified limited practice students receive adequate supervision and guidance while participating in the law school's clinical law program. *E. Withdrawal or Termination of Certification.*

- i. The dean may withdraw a certification of a clinical law professor at any time by filing a notice to that effect, with or without stating the cause for withdrawal, with the clerk of this Court, who shall forthwith mail copies thereof to the clinical law professor and the State Bar of Arizona.
- ii. The Court may terminate the certification of a clinical law professor at any time without cause and without notice or hearing by filing notice of the termination with the clerk of this Court and with the state bar.

5. Practical Training of Law Students

A. Law Student Eligibility for Limited Practice Certification. To be eligible to become a certified limited practice student, a law student applicant must:

- i. have successfully completed legal studies amounting to at least two semesters, or the equivalent academic hour credits if the school or the student is on some basis other than a semester, at an accredited law school;
- ii. neither ask for nor receive any compensation or remuneration of any kind for services rendered by the certified limited practice student from the person on whose behalf the services are rendered, but this shall not prevent a supervising lawyer, legal aid bureau, law school, public defender agency, or the state from paying compensation to the eligible law student, nor shall it prevent any such lawyer or agency from making such charges for its services as it may otherwise properly require;
- iii. certify in writing that the student has read and is familiar with the current Arizona Rules of Professional Conduct and attorney conduct.; and
- iv. be certified by the dean of the accredited law school where the student is enrolled (or was enrolled on graduation), or be the dean's designee, as being in good academic standing, of good character, and as having either successfully completed or being currently enrolled in and attending those academic pre-requisites required by the law school.
- v. Be contemporaneously enrolled in an accredited law school's educational and clinical law practice program approved by the dean and faculty of a law school for the duration of the student limited practice certification. This requirement is applicable to any and all student limited practice certifications.

B. Application for Limited Practice Certification.

- i. All applications for student limited practice certification or requests to change or add a supervising attorney or extend the period of certification pursuant to these rules must be submitted on a form provided by the clerk of the Court, to the clerk, with all the information requested on the form, together with any designated appropriate nonrefundable processing fee. The clerk of the Court shall send a copy of all approved student limited practice certifications to the admissions department of the state bar.
- ii. The application for certification shall require the signature of the applicant, the dean (or the dean's designee) of the accredited law school in which the applicant is enrolled, and the signature of the supervising attorney.
- iii. The applicant shall attest that he or she meets all of the requirements of the rules; agrees to and shall immediately notify the clerk of the Court in the event he or she no longer meets the requirements the rules; and, that he or she has read, is familiar with and will abide by the Rules of Professional Conduct of the State of Arizona and these rules.
- iv. The dean, or dean's designee, of the accredited law school in which the applicant is

enrolled shall attest that the applicant meets the requirements of these rules; that he or she shall immediately notify the clerk of the Court in the event that the certified limited practice student no longer meets the requirements of these rules; and that he or she has no knowledge of facts or information that would indicate that the applicant is not qualified by ability, training, or character to participate in the activities permitted by these rules.

v. The law school shall specify the beginning date and ending date of the student limited practice certificate.

vi. The supervising attorney shall attest that he or she has read, is familiar with, will abide by, and will assume responsibility under the requirements of these rules;

C. Permitted Activities and Requirements of Limited Practice Certification; Physical Presence of Supervising Attorney.

i. *Court and Administrative Tribunal Appearances.* A certified limited practice student may appear in any court or before any administrative tribunal in this state on behalf of any person if the person on whose behalf the student is appearing has consented in writing to that appearance and the supervising attorney has also indicated in writing approval of that appearance. In each case, the written consent and approval shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal. In addition, the certified limited practice student shall orally advise the court on the occasion of the student's initial appearance in the case of the certification to appear as a law student pursuant to these rules. A certified limited practice student may appear in the following matters:

a. *Civil Matters.* In civil cases in justice, municipal, and magistrate courts, the supervising lawyer (or designated lawyer) is not required to be personally present in court if the person on whose behalf an appearance is being made consents to the supervising lawyer's absence.

b. *Criminal Matters on Behalf of the State.* In any criminal matter on behalf of the state or any political subdivision thereof with the written approval of the supervising attorney (or designated attorney), the supervising attorney (or designated attorney) must be present except when such appearance is in justice, municipal, or magistrate courts.

c. *Felony Criminal Defense Matters.* In any felony criminal defense matter in justice, municipal, and magistrate courts, and any criminal matter in superior court, the supervising attorney (or designated attorney) must be personally present throughout the proceedings and shall be fully responsible for the manner in which they are conducted.

d. *Misdemeanor Criminal Defense Matters.* In any misdemeanor criminal defense matter in justice, municipal, and magistrates courts, the supervising attorney (or

designated attorney) is not required to be personally present in court, so long as the person on whose behalf an appearance is being made consents to the supervising attorney's absence; however, the supervising attorney shall be present during trial.

e. *Appellate Oral Argument.* A certified limited practice student may participate in oral argument in the Arizona Supreme Court and the Arizona Court of Appeals, but only in the presence of the supervising attorney (or designated attorney) and with the specific approval of the court for that case.

Notwithstanding anything hereinabove set forth, the court may at any time and in any proceeding require the supervising attorney (or designated attorney) to be personally present for such period and under such circumstances as the court may direct.

ii. *Other Client Representation Activities.* Under the general supervision of the supervising attorney (or designated attorney), but outside his or her personal presence, a certified limited practice student may:

a. prepare pleadings and other documents to be filed in any matter in which the certified limited practice student is eligible to appear, but such pleadings or documents must be signed by the supervising attorney (or designated attorney);

b. prepare briefs, abstracts and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising attorney (or designated attorney);

c. provide assistance to indigent inmates of correctional institutions or other persons who request such assistance in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this court (if there is a lawyer of record in the matter, all such assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney (or designated attorney);

d. render legal advice and perform other appropriate legal services, but only after prior consultation with and upon the express consent of the supervising attorney (or designated attorney).

iii. *Other Non-Representation Activities.* A certified limited practice student may perform any advisory or non-representational activity which could be performed by a person who is not a member of the state bar, subject to the approval by the supervising attorney (or designated attorney). In connection with a volunteer legal services program and at the invitation and request of a court or tribunal, a certified limited practice student may appear as a law student volunteer to assist the proceeding in any civil matter, provided:

- a. the assistance is given to an otherwise unrepresented individual in an uncontested proceeding without entering an appearance as counsel;
- b. the student's supervising attorney is associated with the particular volunteer legal services program;
- c. the certified limited practice student has received the written consent and acknowledgment of non-representation by the unrepresented person, which written consent shall be obtained by the volunteer legal services program and brought to the attention of the court.

D. Use of the Title "Certified Limited Practice Student."

- i. In connection with activities performed pursuant to these rules, a certified student may use the title "Certified Limited Practice Student" only and may not use the title in connection with activities not performed pursuant to these rules.
- ii. When a certified limited practice student's name is printed or signature is included on written materials prepared pursuant to these rules, the written material must also state that the student is a certified limited practice student pursuant to these rules; state the name of the supervising attorney; be signed by the supervising attorney; and otherwise comply with these rules.
- iii. A certified limited practice student may not and shall not in any way hold himself or herself out as a regularly admitted or active member of the state bar.
- iv. Nothing in these rules prohibits a certified limited practice student from describing his or her participation in this program on a resume or letter seeking employment as long as the description is not false, deceptive or misleading.
- v. Nothing contained in these rules shall affect the right of any person who is not admitted to practice law to do anything that person might lawfully do prior to the adoption of this rule.

E. Requirements and Duties of the Supervising Attorney. The supervising attorney shall:

- i. be an active member of the state bar under these rules, and, before supervising a certified limited practice student shall have practiced law or taught law in an accredited law school as a full-time occupation for at least two years;
- ii. supervise no more than five (5) certified limited practice students concurrently; provided, however, that a supervising attorney who is employed by a law school clinical education program to supervise law students as part of an organized law school or government agency training program may supervise up to, but in no case more than, fifty

(50) certified students;

iii. assume personal professional responsibility for any work performed by the certified limited practice student while under his or her supervision;

iv. assist and counsel the certified limited practice student in the activities authorized by these rules and review such activities with the certified limited practice student, all to the extent required for the proper practical training of the certified limited practice student and the protection of the client;

v. read, approve, and personally sign any pleadings, briefs or other similar documents prepared by the certified limited practice student prior to the filing thereof, and read and approve any documents which shall be prepared by the certified limited practice student for execution by any person (exclusively in the case of government agencies, a designated attorney may, in the place of the supervising attorney, perform the obligation set forth in this subparagraph, but the supervising attorney shall still provide general supervision);

vi. provide the level of supervision to the certified limited practice student required by these rules (exclusively in the case of government agencies, a designated attorney may, in the place of the supervising attorney, perform the obligation set forth in this subparagraph, but the Supervising Attorney shall still provide general supervision); and

vii. in the case of a certified student who is participating in the clinical program post-graduation pending the taking of the bar examination, report to the clinical law professor and the dean of the law school, as the law school shall require, on a monthly basis regarding the supervising attorney's supervision and guidance of the certified student.

viii. promptly notify the clerk of the Court in writing if his or her supervision of the certified limited practice student has or will cease prior to the date indicated on a notice of certification.

F. Duration of Certification. Certification of a certified limited practice student shall commence on the date indicated on a notice of certification and shall terminate on the date stated in the notice of certification. The duration of a student's limited practice certificate must be co-extensive with the contemporaneous student enrollment in a law school course or program that supports the student limited practice certificate. The certificate will remain in effect for the period specified on the notice of certification unless sooner terminated, or a revised or amended certificate continuing a new termination date is issued. The certificate shall terminate on its expiration date or the earliest of the following occurrences:

i. *Termination by the Student.* The certified limited practice student may request termination of the certification in writing, or notify the clerk of the Court that he or she no longer meets the requirements of this rule, and in such event the clerk shall send written

notice to the student, the student's supervising attorney, the dean, and the state bar.

ii. *Termination by the Supervising Attorney.* The supervising attorney may notify the clerk of the Court in writing that his or her supervision of the certified limited practice student will cease prior to the date specified in the notice of certification. In such event the clerk shall send written notice to the student, the student's supervising attorney, the dean and the state bar, and the dean may issue a modified certification reflecting the substitution of a new supervising attorney, as necessary.

iii. *Termination by the Dean.* A certification of student limited practice may be terminated by the dean any time, without cause and without notice or hearing, by filing notice of the termination with the clerk of the Court. A certification of student limited practice shall be terminated if one or more of the requirements for the certification no longer exists or the certified limited practice student, supervising attorney or designated attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.

vi. *Termination by the Arizona Supreme Court.* A certification of student limited practice may be terminated by the Arizona Supreme Court any time, without cause and without notice or hearing, by filing notice of the termination with the clerk of the Court. A certification of student limited practice shall be terminated if one or more of the requirements for the certification no longer exists or the certified limited practice student, supervising attorney or designated attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean and the state bar.

vii. Where the student, the law school dean, or dean's designee, and the supervising licensed Arizona attorney all agree to a specific targeted project or case specific extension of termination date of the limited practice certificate beyond the end of the particular supporting contemporaneous law school class to allow students who have received clinical education or are working in a Rule 38 externship with a qualified supervisor to continue a project to its logical end, an Amended Certificate of Student Limited Practice may be issued.

(e)-(i) [No change in text.]

RULES OF THE SUPREME COURT

* * *

Rule 38. Special Exceptions to Standard Examination and Admission Process

(a)-(c) [No change in text.]

(d) Clinical Law Professors and Law Students

1. *Purpose.* The bench and the bar are primarily responsible for providing competent legal services for all persons, including those unable to pay for these services. This rule is adopted as one means of providing assistance to practicing attorneys in providing such services and to encourage law schools to provide clinical instruction in trial work of varying kinds and to facilitate volunteer opportunities for students in pro bono contexts. Law schools, together with the bench and bar, should facilitate supervised opportunities for the practical training of qualified law students as a valuable complement to academic training prior to the student's full admission to legal practice.

2. Definitions.

A. "Accredited law school" means a law school either provisionally or fully approved and accredited by the American Bar Association.

B. "Certified limited practice student" is a law student or a graduate of an accredited law school who holds a currently effective Arizona Supreme Court Certification as a certified limited practice student.

C. "Dean" means the dean of the Accredited Law School where the student is enrolled (or was enrolled on graduation), or ~~be~~ the dean's designee, who signed the application for limited practice certification.

D. "Designated attorney" is, exclusively in the case of government agencies, any deputy, assistant or other staff attorney authorized and selected by a supervising attorney to supervise the certified limited practice student where permitted by these rules.

E. "Period of supervision" means the dates for which the supervising attorney has declared, on the application for certification, ~~or~~ recertification, or amended certification, that he or she will be responsible for any work performed by the certified limited practice student under his or her supervision.

F. "Personal presence" means the supervising attorney or designated attorney is in the physical presence of the certified limited practice student.

G. "Rules" means Rule 38, Rules of the Supreme Court.

H. "Supervising attorney" is an attorney admitted to Arizona full or limited practice who agrees in writing to supervise the certified limited practice student pursuant to these rules and whose name appears on the application for certification or recertification.

I. "Volunteer legal services program" means a volunteer legal services program managed by an approved legal services organization in cooperation with an accredited law school. Approved legal service organizations are defined in paragraph (e)(2)(C) of this rule.

3. *General Provisions.*

A. *Limited Bar Membership.* To the extent a professor or a student is engaged in practice of law under this rule, the professor or student shall, for the limited purpose of performing professional services as authorized by this rule, be deemed an active member of the state bar (but not required to pay fees). The provisions of this rule shall govern rather than the provisions of other rules relating to admission and discipline.

B. *Nonapplicability of Attorney Discipline Rules to Terms of the Certification.* The procedures otherwise provided by law or court rule governing the discipline of lawyers shall not be applicable to the termination of the certification of a clinical law professor or a limited practice student pursuant to this rule. Termination of certification shall be without prejudice to the privilege of the professor or the student to make application for admission to practice law if the professor or the student is in other respects qualified for such admission.

C. *Effect of Certification on Application for Admission to Bar.* The certification of a clinical law professor or a limited practice student shall in no way be considered as an advantage or a disadvantage to the professor in an application for admission to the state bar.

D. *Privileged Communications.* The rules of law and of evidence relating to privileged communications between attorney and client shall govern communications made or received by and among professors, supervising attorneys (and designated attorneys), and certified limited student practice students. All persons participating in any program of instruction or professional activity for which a student is certified under these rules are enjoined not to disclose privileged or confidential communications whether in the implementation of a course of instruction or otherwise.

4. *Clinical Law Professors.*

A. *Activities of Clinical Law Professors.* A clinical law professor not a member of the state bar but certified pursuant to this rule may appear as lawyer, solely in connection with supervision of a clinical law program approved by the dean and faculty of a law school in Arizona which is either provisionally or fully approved and accredited by the American Bar Association, in any court or before any administrative tribunal in this state in any of the matters enumerated in paragraph (d)(5)(C) of this rule on behalf of any person, if the person on whose

behalf the appearance is being made has consented in writing to that appearance. Such written consent shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal.

B. Requirements and Limitations for Clinical Law School Professors. In order to make an appearance as lawyer pursuant to this rule, the clinical law professor must:

- i. be duly employed as a faculty member of a law school in Arizona which is either provisionally or fully approved and accredited by the American Bar Association for the purpose, *inter alia*, of instructing and supervising a clinical law program approved by the dean and faculty of such law school;
- ii. be admitted by examination to the bar of another state or the District of Columbia;
- iii. neither ask for nor receive any compensation or remuneration of any kind for such services from the person on whose behalf the services are rendered; and
- iv. certify in writing that the clinical law professor has read and is familiar with the Arizona Rules of Professional Conduct and the Rules of the Supreme Court of Arizona and statutes of the State of Arizona relating to the conduct of lawyers.

C. Certification. The certification shall be signed by the dean of the law school on the form proscribed by the clerk of this Court and shall be filed with the clerk and the state bar. The certification shall remain in effect until withdrawn.

D. Duty to Ensure Adequate Supervision and Guidance of Certified Limited Practice Student. It shall be the responsibility of the clinical law professor to ensure that certified limited practice students receive adequate supervision and guidance while participating in the law school's clinical law program. ~~In the case of a certified student who has graduated and participates in the program pending the taking of the bar examination, the clinical law professor shall, on a monthly basis, based on such reporting from the certified limited practice student and the supervising attorney as the law school shall require, confirm that the certified graduate has received and is receiving adequate attorney supervision and guidance.~~

E. Withdrawal or Termination of Certification.

- i. The dean may withdraw a certification of a clinical law professor at any time by filing a notice to that effect, with or without stating the cause for withdrawal, with the clerk of this Court, who shall forthwith mail copies thereof to the clinical law professor and the State Bar of Arizona.
- ii. The Court may terminate the certification of a clinical law professor at any time without cause and without notice or hearing by filing notice of the termination with the clerk of this Court and with the state bar.

5. *Practical Training of Law Students*

A. *Law Student Eligibility for Limited Practice Certification.* To be eligible to become a certified limited practice student, a law student applicant must:

i. have successfully completed legal studies amounting to at least ~~three~~ two semesters, or the equivalent academic hour credits if the school or the student is on some basis other than a semester, at an accredited law school; ~~or have graduated from an accredited law school, subject to the time limitations set forth in these rules;~~

ii. neither ask for nor receive any compensation or remuneration of any kind for services rendered by the certified limited practice student from the person on whose behalf the services are rendered, but this shall not prevent a supervising lawyer, legal aid bureau, law school, public defender agency, or the state from paying compensation to the eligible law student, nor shall it prevent any such lawyer or agency from making such charges for its services as it may otherwise properly require;

iii. certify in writing that the student has read and is familiar with the current Arizona Rules of Professional Conduct and attorney conduct; ~~the rules of the Supreme Court of Arizona and statutes of the State of Arizona relating to the conduct of attorneys;~~ and

iv. be certified by the dean of the accredited law school where the student is enrolled (or was enrolled on graduation), or be the dean's designee, as being in good academic standing, of good character, and as having either successfully completed or being currently enrolled in and attending academic courses those academic pre-requisites required by the law school; ~~in civil procedure, criminal law, evidence, and professional responsibility.~~

v. Be contemporaneously enrolled in an accredited law school's educational and clinical law practice program approved by the dean and faculty of a law school for the duration of the student limited practice certification. This requirement is applicable to any and all student limited practice certifications.

B. *Application for Limited Practice Certification.*

i. All applications for student limited practice certification or requests to change or add a supervising attorney or extend the period of certification pursuant to these rules must be submitted on a form provided by the clerk of the Court, to the clerk, with all the information requested on the form, together with any designated appropriate nonrefundable processing fee. The clerk of the Court shall send a copy of all approved student limited practice certifications to the admissions department of the state bar.

ii. The application for certification shall require the signature of the applicant, the dean,

(or the dean's designee), ~~associate dean, or assistant dean~~ of the accredited law school in which the applicant is enrolled, and the signature of the supervising attorney.

iii. The applicant shall attest that he or she meets all of the requirements of the rules; agrees to and shall immediately notify the clerk of the Court in the event he or she no longer meets the requirements the rules; and, that he or she has read, is familiar with and will abide by the Rules of Professional Conduct of the State of Arizona and these rules.

iv. The dean, or dean's designee, ~~associate dean, or assistant dean~~ of the accredited law school in which the applicant is enrolled shall attest that the applicant meets the requirements of these rules; that he or she shall immediately notify the clerk of the Court in the event that the certified limited practice student no longer meets the requirements of these rules; and that he or she has no knowledge of facts or information that would indicate that the applicant is not qualified by ability, training, or character to participate in the activities permitted by these rules.

v. The ~~law school supervising attorney~~ shall specify the beginning date and ending date of the student limited practice certificate.

vi. The supervising attorney shall ~~period during which he or she will be responsible for and will supervise the applicant~~ and attest that he or she has read, is familiar with, will abide by, and will assume responsibility under the requirements of these rules;

C. Permitted Activities and Requirements of Limited Practice Certification; Physical Presence of Supervising Attorney.

i. *Court and Administrative Tribunal Appearances.* A certified limited practice student may appear in any court or before any administrative tribunal in this state on behalf of any person if the person on whose behalf the student is appearing has consented in writing to that appearance and the supervising attorney has also indicated in writing approval of that appearance. In each case, the written consent and approval shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal. In addition, the certified limited practice student shall orally advise the court on the occasion of the student's initial appearance in the case of the certification to appear as a law student pursuant to these rules. A certified limited practice student may appear in the following matters:

a. *Civil Matters.* In civil cases in justice, municipal, and magistrate courts, the supervising lawyer (or designated lawyer) is not required to be personally present in court if the person on whose behalf an appearance is being made consents to the supervising lawyer's absence.

b. *Criminal Matters on Behalf of the State.* In any criminal matter on behalf of the

state or any political subdivision thereof with the written approval of the supervising attorney (or designated attorney), the supervising attorney (or designated attorney) must be present except when such appearance is in justice, municipal, or magistrate courts.

c. *Felony Criminal Defense Matters.* In any felony criminal defense matter in justice, municipal, and magistrate courts, and any criminal matter in superior court, the supervising attorney (or designated attorney) must be personally present throughout the proceedings and shall be fully responsible for the manner in which they are conducted.

d. *Misdemeanor Criminal Defense Matters.* In any misdemeanor criminal defense matter in justice, municipal, and magistrates courts, the supervising attorney (or designated attorney) is not required to be personally present in court, so long as the person on whose behalf an appearance is being made consents to the supervising attorney's absence; however, the supervising attorney shall be present during trial.

e. *Appellate Oral Argument.* A certified limited practice student may participate in oral argument in the Arizona Supreme Court and the Arizona Court of Appeals, but only in the presence of the supervising attorney (or designated attorney) and with the specific approval of the court for that case.

Notwithstanding anything hereinabove set forth, the court may at any time and in any proceeding require the supervising attorney (or designated attorney) to be personally present for such period and under such circumstances as the court may direct.

ii. *Other Client Representation Activities.* Under the general supervision of the supervising attorney (or designated attorney), but outside his or her personal presence, a certified limited practice student may:

a. prepare pleadings and other documents to be filed in any matter in which the certified limited practice student is eligible to appear, but such pleadings or documents must be signed by the supervising attorney (or designated attorney);

b. prepare briefs, abstracts and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising attorney (or designated attorney);

c. provide assistance to indigent inmates of correctional institutions or other persons who request such assistance in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this court (if there is a lawyer of record in the matter, all such assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney (or designated attorney);

d. render legal advice and perform other appropriate legal services, but only after prior consultation with and upon the express consent of the supervising attorney (or designated attorney).

iii. *Other Non-Representation Activities.* A certified limited practice student may perform any advisory or non-representational activity which could be performed by a person who is not a member of the state bar, subject to the approval by the supervising attorney (or designated attorney). In connection with a volunteer legal services program and at the invitation and request of a court or tribunal, a certified limited practice student may appear as a law student volunteer to assist the proceeding in any civil matter, provided:

a. the assistance is given to an otherwise unrepresented individual in an uncontested proceeding without entering an appearance as counsel;

b. the student's supervising attorney is associated with the particular volunteer legal services program;

c. the certified limited practice student has received the written consent and acknowledgment of non-representation by the unrepresented person, which written consent shall be obtained by the volunteer legal services program and brought to the attention of the court.

D. Use of the Title "Certified Limited Practice Student."

i. In connection with activities performed pursuant to these rules, a certified student may use the title "Certified Limited Practice Student" only and may not use the title in connection with activities not performed pursuant to these rules.

ii. When a certified limited practice student's name is printed or signature is included on written materials prepared pursuant to these rules, the written material must also state that the student is a certified limited practice student pursuant to these rules; state the name of the supervising attorney; be signed by the supervising attorney; and otherwise comply with these rules.

iii. A certified limited practice student may not and shall not in any way hold himself or herself out as a regularly admitted or active member of the state bar.

iv. Nothing in these rules prohibits a certified limited practice student from describing his or her participation in this program on a resume or letter seeking employment as long as the description is not false, deceptive or misleading.

v. Nothing contained in these rules shall affect the right of any person who is not admitted to practice law to do anything that person might lawfully do prior to the adoption of this rule.

E. *Requirements and Duties of the Supervising Attorney.* The supervising attorney shall:

- i. be an active member of the state bar under these rules, and, before supervising a certified limited practice student shall have practiced law or taught law in an accredited law school as a full-time occupation for at least two years;
- ii. supervise no more than five (5) certified limited practice students concurrently; provided, however, that a supervising attorney who is employed by a law school clinical education program ~~full-time~~ to supervise law students as part of an organized law school or government agency training program may supervise up to, but in no case more than, fifty (50) certified students;
- iii. assume personal professional responsibility for any work performed by the certified limited practice student while under his or her supervision;
- iv. assist and counsel the certified limited practice student in the activities authorized by these rules and review such activities with the certified limited practice student, all to the extent required for the proper practical training of the certified limited practice student and the protection of the client;
- v. read, approve, and personally sign any pleadings, briefs or other similar documents prepared by the certified limited practice student prior to the filing thereof, and read and approve any documents which shall be prepared by the certified limited practice student for execution by any person (exclusively in the case of government agencies, a designated attorney may, in the place of the supervising attorney, perform the obligation set forth in this subparagraph, but the supervising attorney shall still provide general supervision);
- vi. provide the level of supervision to the certified limited practice student required by these rules (exclusively in the case of government agencies, a designated attorney may, in the place of the supervising attorney, perform the obligation set forth in this subparagraph, but the Supervising Attorney shall still provide general supervision); and
- vii. in the case of a certified student who is participating in the clinical program post-graduation pending the taking of the bar examination, report to the clinical law professor and the dean of the law school, as the law school shall require, on a monthly basis regarding the supervising attorney's supervision and guidance of the certified student.
- viii. promptly notify the clerk of the Court in writing if his or her supervision of the certified limited practice student has or will cease prior to the date indicated on a notice of certification.

F. *Duration of Certification.* Certification of a certified limited practice student shall

commence on the date indicated on a notice of certification and shall terminate on the date stated in the notice of certification. The duration of a student's limited practice certificate must be co-extensive with the contemporaneous student enrollment in a law school course or program that supports the student limited practice certificate. The certificate will remain in effect for the period specified on the notice of certification unless sooner terminated, or a revised or amended certificate continuing a new termination date is issued. The certificate shall terminate on its expiration date or the ~~pursuant to the~~ earliest of the following occurrences:

i. *Termination by the Student.* The certified limited practice student may request termination of the certification in writing, or notify the clerk of the Court that he or she no longer meets the requirements of this rule, and in such event the clerk shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.

ii. *Termination by the Supervising Attorney.* The supervising attorney may notify the clerk of the Court in writing that his or her supervision of the certified limited practice student will cease prior to the date specified in the notice of certification. In such event the clerk shall send written notice to the student, the student's supervising attorney, the dean and the state bar, and the dean may issue a modified certification reflecting the substitution of a new supervising attorney, as necessary.

iii. *Termination by the Dean.* A certification of student limited practice may be terminated by the dean any time, without cause and without notice or hearing, by filing notice of the termination with the clerk of the Court. A certification of student limited practice shall be terminated if one or more of the requirements for the certification no longer exists or the certified limited practice student, supervising attorney or designated attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.

~~iv. *Failure to Take or Pass the Bar Examination.* A certification of student limited practice shall be terminated if the certified student fails to take or pass the first general bar examination for which the student is eligible.~~

vi. *Termination by the Arizona Supreme Court.* A certification of student limited practice may be terminated by the Arizona Supreme Court any time, without cause and without notice or hearing, by filing notice of the termination with the clerk of the Court. A certification of student limited practice shall be terminated if one or more of the requirements for the certification no longer exists or the certified limited practice student, supervising attorney or designated attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean and the state bar.

vii. Where the student, the law school dean, or dean's designee, and the supervising licensed Arizona attorney all agree to a specific targeted project or case specific extension of termination date of the limited practice certificate beyond the end of the particular supporting contemporaneous law school class to allow students who have received clinical education or are working in a Rule 38 externship with a qualified supervisor to continue a project to its logical end, an Amended Certificate of Student Limited Practice may be issued.

(e)-(i) [No change in text.]